

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

vs.

Criminal No. 22-225

SETH HOLLERICH,

Defendant.

- - -

Transcript of Detention Hearing on September 14, 2022, in the
United States District Court, Pittsburgh, Pennsylvania, before
The Honorable Patricia L. Dodge, Magistrate Judge.

APPEARANCES:

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Proceedings recorded by mechanical stenography; transcript
produced by computer-aided transcription

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P R O C E E D I N G S

(In open court, Defendant present with counsel.)

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THE COURT: Good morning. We are here this morning in the matter of the United States vs. Seth Hollerich at Docket Number 22-225.

Would counsel identify themselves, please?

MS. GAL-OR: Good morning. Karen Gal-Or on behalf of the United States.

THE COURT: Good morning.

MR. BROOKS: Good morning. Johanathan Brooks on behalf of Mr. Hollerich.

THE COURT: Good morning. The first order of business today is the arraignment.

Mr. Hollerich, the purpose of this proceeding is to advise you of the nature of the charges against you and to take your plea.

Mr. Brooks, has Mr. Hollerich received a copy of the indictment?

MR. BROOKS: He has.

THE COURT: Have you had an opportunity to review it with him?

MR. BROOKS: I have.

THE COURT: Do you waive the formal reading?

MR. BROOKS: I do.

1 THE COURT: All right. Then, Mr. Hollerich, I'm going
2 to briefly review with you that a federal grand jury returned a
3 three-count indictment against you for the following alleged
4 violations of federal law:

5 In Count One, you have been charged with distribution
6 of material depicting the sexual exploitation of a minor on or
7 about March 18th of 2021. That would be a violation of Title 18
8 of the United States Code, Section 2252(a)(2).

9 In Count Two of the indictment, you have been charged
10 with distribution of material depicting the sexual exploitation
11 of a minor on or about September 30, 2021. That would also be a
12 violation of the same section of the United States Code.

13 In Count Three, you have been charged with possession
14 of material depicting the sexual exploitation of a minor on or
15 about November 10th of 2021. That would be a violation of
16 Title 18 of the United States Code, Sections 2252(a)(4)(B) and
17 2252(b)(2).

18 Ms. Gal-Or, would you advise Mr. Hollerich of the
19 maximum penalties for those counts?

20 MS. GAL-OR: Yes, Your Honor.

21 THE COURT: Thank you.

22 MS. GAL-OR: As to Counts One and Two, the maximum
23 penalties are imprisonment of not less than five years and not
24 more than 20 years, but if the defendant has a prior conviction
25 under Title 18, United States Code, Chapter 110, Chapter 71,

Chapter 109A, Chapter 117, Section 1591, or under Section 920 of Title 10, or under the laws of any state relating to aggravated sexual abuse, sexual abuse, or abuse of sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, or sex trafficking of children, the defendant shall be fined under this title and imprisoned not less than 15 years nor more than 40 years.

In addition, a fine of \$250,000.

And a term of supervised release of at least five years and up to life.

In addition, there are several mandatory special assessments. First, a mandatory special assessment of \$100 must be imposed at each count upon which the defendant is convicted.

In addition, as to Counts One, Two, and Three, an additional special assessment of \$5,000 must be imposed, as the offenses were committed after May 29, 2015, and the offenses are located within Chapter 110 of Title 18, United States Code.

Pursuant to Section 2259A of that same statute, an additional special assessment of not more than \$35,000 shall be assessed as to Counts One and Two.

With regard to Count Three, possession of material depicting the sexual employment of a minor, the maximum penalties are a term of imprisonment of not more than ten years.

Any image of child pornography involved in the offense

1 involved a prepubescent minor or a minor who had not attained 12
2 years of age, the defendant shall be fined and imprisoned not
3 more than 20 years, or;

4 If the defendant has a prior conviction under
5 Title 18, United States Code, Chapter 110, Chapter 71,
6 Chapter 109A, Chapter 117, or under Section 920 of Title 10, or
7 under the laws of any state relating to aggravated sexual abuse,
8 sexual abuse, or abuse of sexual conduct involving a minor or
9 ward, or the production, possession, receipt, mailing, sale,
10 distribution, shipment, or transportation of child pornography,
11 such person shall be fined under the title and imprisoned not
12 less than 10 years and not more than 20 years.

13 In addition, a fine of not more than \$250,000 may be
14 imposed.

15 And a term of supervised release of at least five
16 years up to life.

17 And with regard to Count Three, pursuant to Title 18,
18 United States Code, Section 2259A, an additional special
19 assessment of not more than \$17,000 shall be assessed as the
20 offense was committed after December 7, 2018, and the offense is
21 for trafficking in child pornography as defined in Title 18,
22 United States Code, Section 2259(c)(3).

23 In addition, restitution may be required as to all of
24 the counts charged.

25 And the amount of restitution to each victim shall not

1 be less than \$3,000.

2 THE COURT: Thank you, Ms. Gal-Or.

3 Mr. Hollerich, do you understand what the charges are
4 against you?

5 THE DEFENDANT: I do, Your Honor.

6 THE COURT: Do you understand the maximum penalties
7 for those charges?

8 THE DEFENDANT: I do, Your Honor.

9 THE COURT: Thank you.

10 Mr. Brooks, how does Mr. Hollerich plead?

11 MR. BROOKS: Not guilty.

12 THE COURT: Does he wish to retain his right to a jury
13 trial?

14 MR. BROOKS: He does.

15 THE COURT: At some point during our proceeding,
16 Ms. Eckenrode will provide you with the arraignment plea. It
17 looks like you have the arraignment plea. I would ask you and
18 Mr. Hollerich sign that at some point before we're concluded
19 today.

20 All right. What is the status of discovery at this
21 point, Ms. Gal-Or?

22 MS. GAL-OR: Your Honor, there has been initial and
23 supplement production of discovery which should at this time
24 complete the discovery of the non-obscene matters.

25 I also believe that Johanathan Brooks was able to see

1 all of the Rule 16 material at Homeland Security with one of the
2 agents there and was able to review the material.

3 THE COURT: All right. Thank you.

4 Do you have an estimate of how much time the
5 government will need at trial?

6 MS. GAL-OR: Two days, Your Honor.

7 THE COURT: Mr. Brooks, how much additional time for
8 Mr. Hollerich?

9 MR. BROOKS: One day, Your Honor.

10 THE COURT: All right. Mr. Brooks, do you wish to
11 make any oral motions at this time?

12 MR. BROOKS: Yes. I would ask that the Pretrial
13 motions schedule be extended by 45 days.

14 THE COURT: All right. That motion is granted. That
15 extends the time for Pretrial motions through October 31st of
16 this year.

17 I want to also now turn to other matters. But first,
18 let me issue an order confirming that the United States has an
19 obligation to timely disclose Brady information to
20 Mr. Hollerich.

21 I remind government counsel that failure to comply
22 with these disclosure obligations may result in consequences
23 such as: the exclusion of evidence, dismissal of charges,
24 contempt proceedings, disciplinary referral, and any other
25 relief authorized by law. And I'll also issue a written order

1 to that effect.

2 Ms. Gal-Or, is the government seeking detention in
3 connection with the indictment?

4 MS. GAL-OR: Yes, Your Honor.

5 THE COURT: All right. And is the government entitled
6 to seek detention because there are new or additional charges in
7 the indictment as opposed to the complaint for which we already
8 have a process?

9 MS. GAL-OR: Yes, Your Honor. The complaint charged
10 Mr. Hollerich with possession of child sexual exploitation
11 material. The indictment has added two charges of distribution.

12 THE COURT: Mr. Brooks, do you agree?

13 MR. BROOKS: Yes, Your Honor.

14 THE COURT: All right. I believe we were scheduled
15 today for both a bond hearing and a detention hearing. It's my
16 understanding from a brief meeting with counsel before this
17 proceeding that we are not proceeding with a bond hearing; is
18 that correct?

19 MS. GAL-OR: Your Honor, that is correct. I do
20 understand that there is a pending motion to amend the bond
21 conditions which I believe will -- I believe the defendant has
22 not withdrawn. So it's my understanding that that will also
23 take place today.

24 THE COURT: Understood. Understood. Mr. Brooks, do
25 you agree with that?

1 MR. BROOKS: I agree.

2 THE COURT: I think, probably in the order of things,
3 we'll deal with the detention hearing. Mr. Brooks, I will also
4 deal with your motion depending on outcome of that detention
5 hearing, all right?

6 MR. BROOKS: Thank you.

7 THE COURT: Then we are ready to proceed with a
8 detention hearing, noting that this matter comes to the Court
9 based on the government's request to detain Mr. Hollerich
10 pending the trial.

11 I want to note for the record that in considering that
12 request I'm guided by several general principles.

13 First of all, at all times Mr. Hollerich is entitled
14 to the presumption of innocence. Nothing that takes place in
15 this hearing and nothing I set forth in my findings is intended
16 to effect that presumption nor should it be construed to do so.
17 Rather, the purpose of this detention hearing is to determine
18 whether notwithstanding that presumption of innocence
19 Mr. Hollerich should be detained pending trial.

20 As counsel is aware, I am also guided by the Bail
21 Reform Act that requires me to consider whether there are any
22 conditions or combination of conditions that will assure the
23 appearance of Mr. Hollerich and/or the safety of persons in the
24 community. I'm required by the Bail Reform Act to consider
25 certain factors with respect to that issue and determine whether

1 there are any such conditions.

2 If there are, I may release Mr. Hollerich on those
3 conditions. If there are not, then I am required to order him
4 detain pending the trial of this matter.

5 With that, Ms. Gal-Or, are you prepared to proceed?

6 MS. GAL-OR: I am, Your Honor.

7 THE COURT: All right.

8 MS. GAL-OR: The government would call Special Agent
9 Martin Ryan.

10 THE COURT: All right. Please step forward to be
11 sworn.

12 (Administration of the oath.)

13 THE CLERK: Please take the witness stand. State and
14 spell your name for the court reporter.

15 THE WITNESS: Martin Ryan, R-Y-A-N.

16 THE COURT: Ms. Gal-Or, you may proceed when ready.

17 MARTIN RYAN, a witness herein, having been first duly
18 sworn, was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MS. GAL-OR:

21 Q. Good morning, Agent Ryan.

22 A. Good morning.

23 Q. Agent Ryan, where are you currently employed?

24 A. As a special agent with Homeland Security
25 Investigations in Pittsburgh.

1 Q. And how long have you been employed at HSI?

2 A. Since 2004.

3 Q. Can you briefly describe your relevant duties in that
4 role.

5 A. I'm investigator of many different federal crimes, but
6 I'm assigned to a group that investigates cyber crimes.

7 Q. Do you have any training or experience investigating
8 child exploitation crimes?

9 A. Yes. I have basic training from our academy and also
10 I've been assigned to this group since 2013, approximately.

11 Q. Is your testimony today based on your own
12 participation in an investigation involving Seth Hollerich?

13 A. Yes.

14 Q. Is it also based on your review of investigative
15 material and discussions with other law enforcement agents?

16 A. Yes.

17 Q. Agent Ryan, how did law enforcement come to learn
18 about Seth Hollerich?

19 A. Our office received a lead from our cyber crime
20 center, also known as C3, which received a lead from a MEGA
21 Cloud application that there was child sexual abuse material
22 associated with an email address, JimHender94@yahoo.com.

23 Q. What was the substance of that referral in that -- how
24 did agents come to learn that JimHender94@yahoo.com was
25 associated with child sexual exploitation material?

1 A. Special agents with our Homeland Security
2 Investigation San Diego office had an undercover -- in an
3 undercover had an investigation which discovered this and also
4 sent it to MEGA, MEGA sent it to NCMEC, which is the National
5 Center for Missing and Exploited Children, and they sent that to
6 our cyber crime center which sent it to our office.

7 MR. BROOKS: Your Honor, Mr. Ryan is reading off of
8 notes. I was just wondering if I would be provided with those
9 notes or I could see those notes or --

10 THE WITNESS: Sure.

11 MR. BROOKS: I know that the government did distribute
12 some material to me yesterday, but I'm not sure if it's the same
13 notes or different notes.

14 MS. GAL-OR: Yes, Your Honor, I did provide any notes
15 that were created by this witness yesterday. And I've also
16 previously provided all of the reports about which this witness
17 has been testifying.

18 THE COURT: So Mr. Brooks has those notes?

19 MS. GAL-OR: Yes, Your Honor, Mr. Brooks has those
20 notes, as well as the reports upon which the information is
21 based.

22 THE COURT: Mr. Brooks, do you have those notes with
23 you?

24 MR. BROOKS: I do. I didn't know if there were any
25 additional ones.

1 THE COURT: Thank you. We can proceed. Thank you.

2 BY MS. GAL-OR:

3 Q. Agent Ryan, what is MEGA?

4 A. MEGA is a Cloud storage and file hosting service
5 offered by MEGA Limited. The service is offered through
6 web-based apps. MEGA mobile apps are also available on Android
7 and IOS.

8 Q. And did HSI receive information from MEGA regarding
9 the person who had created the folder containing child
10 pornography?

11 A. Yes, and that also had association with email address
12 JimHender94@yahoo.com.

13 Q. And you mentioned HSI also received another report
14 from the NCMEC; is that correct?

15 A. That's correct.

16 Q. I believe you said that was the National Center for
17 Missing and Exploited Children?

18 A. Correct.

19 Q. And if you could briefly describe what is the NCMEC?

20 A. Sure. It is a private corporation whose mission is to
21 help find missing children, reduce child sexual exploitation,
22 and prevent child victimization. NCMEC works with families,
23 victims, private industry, law enforcement, and the public to
24 assist with preventing child abductions, recovering missing
25 children, and providing services to deter and combat child

1 sexual exploitation.

2 Q. And, Agent Ryan, the NCMEC provided a report regarding
3 an application called Tumblr; is that right?

4 A. That's correct.

5 Q. What is Tumblr?

6 A. Tumblr is an American microblogging and social
7 networking website. The service allows users to post multimedia
8 and other content to short-term blogging. Users can follow
9 other users' blogs. Blogs can also make blog -- bloggers can
10 also make their blogs private. Basically can share anything,
11 whether text, photos, links, or videos.

12 Q. And did Tumblr make a report to the NCMEC?

13 A. They did.

14 Q. And what was that report?

15 A. That identified user, all one word,
16 casualpsychicpersonbat, had uploaded images of apparent child
17 pornography.

18 Q. And did Tumblr also provide an email address
19 associated with casualpsychicpersonbat?

20 A. Yes. That email address was JimHender94@yahoo.com.

21 Q. And did agents review the file associated with that
22 cyber tip?

23 A. Yes.

24 Q. And what did that depict?

25 A. It showed a minor female, approximately 12, performing

1 oral sex on an adult male.

2 Q. Did agents also obtain records and information from
3 Yahoo! related to the email address JimHender94@yahoo.com?

4 A. Yes. That information also was associated with email
5 JosieWales1869@yahoo.com.

6 And also IP address that returned to a Comcast account
7 for Karen Schultz at the address 5022 Cardox Road, South Park,
8 Pennsylvania, 15129.

9 Q. Did agents do any research into who Karen Schultz was
10 and the address?

11 A. Yes, and they found that it was likely that Seth
12 Hollerich also lived at the same address with Ms. Schultz and
13 that he was her son.

14 Q. Did agents also obtain the contents of the email
15 account JimHender94@yahoo.com?

16 A. Yes.

17 Q. What did they find within those emails?

18 A. They found that emails were forwarded to
19 JimHender94@yahoo.com from the email account of
20 Shollerich94@gmail.com.

21 Q. Did agents at some point obtain a search warrant to
22 search the residence at 5022 Cardox Road in South Park,
23 Pennsylvania?

24 A. Yes.

25 Q. And when was that executed?

1 A. That was on November 10, 2021.

2 Q. And did agents encounter Mr. Hollerich at that time?

3 A. Yes, and he was interviewed. He was told that he was
4 not under arrest and free to leave.

5 From Special Agent Brandon Wargo's report
6 Mr. Hollerich stated that he has one -- had one cellular
7 telephone which was an AT&T wireless prepaid phone.

8 Mr. Hollerich stated that the device would be on his bed, where
9 it was later found. Mr. Hollerich stated that he is the only
10 person with access to the device and it's password-protected.

11 Special Agent Wargo advised Mr. Hollerich as to the
12 nature of the investigation and why law enforcement was there.
13 Mr. Hollerich stated, it was always a mistake. I always knew
14 this would happen.

15 Special Agent Wargo asked what Hollerich meant by
16 that, to which he admitted he had child pornography on his
17 cellular telephone. Mr. Hollerich was asked for his definition
18 of child pornography, to which he stated, children under 18
19 engaged in sexual acts.

20 In a relation to the ongoing investigation,
21 Mr. Hollerich stated he was the person in control of an email
22 address, JimHender94@yahoo.com, and had utilized said email
23 address to create profiles on several file sharing, chatting and
24 social media platforms, including Wickr, Tumblr, and MEGA.

25 Mr. Hollerich was asked about an associated email

1 address of JosieWales1869@yahoo.com which was associated with
2 the email account of JimHender94@yahoo.com by a machine cookie.

3 Mr. Hollerich stated that he was the individual in
4 control of that account as well.

5 Mr. Hollerich stated he utilized the account to create
6 an additional Tumblr account. Mr. Hollerich could not remember
7 if the account was created before or after the Tumblr account
8 associated with JimHender94@yahoo.com was taken down.

9 Mr. Hollerich stated at some point, however, that
10 JosieWales1869@yahoo.com Tumblr account was also disabled
11 because of child exploitation material being shared.

12 Q. Did Mr. Hollerich make any statements about what he
13 searched for?

14 A. Yes. Excuse me a second.

15 He claimed that he last viewed child pornography a few
16 months ago. Mr. Hollerich was asked if there was any child
17 pornography on his current cellular telephone to which he
18 responded yes, there was.

19 Mr. Hollerich claims he has been viewing and accessing
20 child exploitation material for approximately seven years, off
21 and on.

22 And the search terms that utilized to locate images of
23 videos -- images and videos of child sexual abuse material to
24 which he responded young, cuties, and teen.

25 Mr. Hollerich was about -- was asked about several

1 other known terms to which he stated he had no knowledge what
2 those terms meant.

3 Mr. Hollerich stated he is never searching for
4 anything in particular. However, it is mostly of girls with no
5 specific age or sexual act.

6 Mr. Hollerich claims his attraction to child
7 exploitation material is more because it's taboo; further
8 explaining, I just get horny.

9 Mr. Hollerich stated he does masturbate and ejaculate
10 to child sexual abuse material.

11 Mr. Hollerich claimed the youngest individual he has
12 observed in child sexual abuse material is an infant or toddler,
13 claiming again he has masturbated to this type of file.

14 Q. Agent Ryan, did agents recover a cell phone from
15 Mr. Hollerich's bedroom?

16 A. Yes.

17 Q. And is that cell phone listed in a forfeiture
18 provision of the indictment?

19 A. Yes.

20 Q. And did agents forensically extract and manually
21 review the contents of that cell phone?

22 A. Yes.

23 Q. Did agents find any child sexual abuse material on
24 that cell phone?

25 A. Yes. Media files that were discovered of images of

1 child pornography total of 391, with 383 being binary unique,
2 meaning there were a few duplicates.

3 As far as videos, videos of child pornography totaled
4 27, with 27 being binary, unique, meaning no duplicates were
5 found.

6 Q. If you could please briefly describe some of the
7 images and videos found on the phone?

8 A. One photograph depicts minor, white female,
9 approximately two to three years old. The minor is fully nude,
10 positioned on her knees performing oral sex on an adult white
11 male.

12 Another photograph depicts minor female, who is
13 approximately ten to twelve years old, positioned away from the
14 camera, who appears to be fully nude performing oral sex on an
15 adult male.

16 In the forensic report from Special Agent Dave
17 Coleman -- excuse me, Special Agent Brandon Wargo, he noted that
18 this image was the subject of a referral from Tumblr to NCMEC
19 and was the basis of search warrant conducted on the Tumblr
20 account casualpsychicpersonbat, all one word.

21 As far as videos, one video approximately 45 seconds
22 in length, depicts a minor, white female who is approximately
23 six to seven years old, who is fully nude, positioned on top of
24 a fully nude adult white male. The adult is observed
25 penetrating the vagina of the minor with his penis for the

1 duration of the video.

2 In another video, which is approximately 23 seconds in
3 length, it depicts a minor, white female who is approximately
4 four to five years old, laying on her back, exposing her vagina
5 to the camera. Adult male -- adult, white male was observed
6 masturbating his erect penis to minor's vagina and ejaculating
7 onto her pelvis and vagina.

8 Q. Agent, you mentioned that agents saw on the cell phone
9 images of a minor female performing oral sex on adult male that
10 appeared to be visually similar to the one that was -- sorry.

11 Did agents see on the cell phone images of a minor
12 female performing oral sex on an adult male that appear to be
13 visually similar to the one that Tumblr reported to NCMEC?

14 A. Correct.

15 Q. Is that the image charged in Count One of indictment?

16 A. Yes.

17 Q. Did agents also receive another cyber tip related to
18 Mr. Hollerich?

19 A. Yes. From Tumblr, related to email address
20 JimHender94@yahoo.com that was uploaded on or about March 18,
21 2021.

22 Q. I'm sorry?

23 A. I'm sorry.

24 Q. That was the image charged at Count One of the
25 indictment; is that correct?

1 A. Yes.

2 Q. Was there another cyber tip reported by Tumblr to the
3 NCMEC related to the Josie69 Tumblr account?

4 A. Yes. User Josie69 uploaded three images of apparent
5 child pornography to that website.

6 Q. Was one of those images also found on Mr. Hollerich's
7 phone?

8 A. Yes. That image depicted a minor female,
9 approximately eight to ten years old, positioned on her knees,
10 facing away from the camera.

11 Q. And is that the image that is charged in Count Two of
12 the indictment?

13 A. Yes.

14 Q. Did law enforcement also obtain a search warrant for
15 the Tumblr account Josie69?

16 A. Yes.

17 Q. What did they find within the content of the Josie69
18 Tumblr account?

19 A. I'm sorry. Could you ask the question again.

20 Q. Sure. What did law enforcement find within the
21 contents provided by Tumblr for the Josie69 Tumblr account?

22 A. I'm sorry. Is there a report number you could refer
23 me to?

24 Q. Sure. And this is also provided to defense counsel.
25 And I believe this is a report drafted by Special Agent Brandon

1 Wargo, approved December 6, 2021, report number 8.

2 A. Thank you.

3 Tumblr provided 357 images which were shared via the
4 Josie69 account. Within those records were the images described
5 in the cyber tip, at least four different conversations.

6 Mr. Hollerich sent a file which appears to depict a
7 minor female who appears to be fifteen, sixteen years old, is
8 fully nude, facing the camera. Her hands are on the buttocks of
9 what appears to be another minor female. The first female is
10 spreading the buttocks of the other female. And based on body
11 features, also appear to be a minor exposing her vagina and anus
12 to the camera.

13 I'm sorry, I need these glasses.

14 In exchange with another user, MA_TSU, Mr. Hollerich
15 said, ever want to chat or trade, HMU -- which stands for hit me
16 up -- into -- everything is basically LOL, but love the cuties.
17 He then sent the aforementioned image.

18 Q. Thank you. Thank you, Special Agent.

19 Were there any other communications with any other
20 individuals on Tumblr? But if I could ask you not to say the
21 other user's name --

22 A. I'm sorry.

23 Q. -- just in the event since they are not part of this
24 case.

25 A. Yes. I'm sorry.

1 Another user on Tumblr?

2 Q. Yes. Any other communication with other Tumblr users
3 and Josie69?

4 A. In exchange with another user, another user asked
5 Mr. Hollerich, so what ages do you like? What kind of things do
6 you like? Mr. Hollerich responded, pretty much everything, LOL.
7 But I love little cuties and jail bait, LOL. Mr. Hollerich
8 further stated, love to watch my cock squeezing in them.

9 Q. Agent Ryan, are you aware that Mr. Hollerich was
10 charged via a complaint in or around November of 2021?

11 A. Yes.

12 Q. And that he was placed on Pretrial supervision?

13 A. Yes.

14 Q. And various conditions were imposed at that time?

15 A. Yes.

16 Q. Including that he wouldn't violate any laws?

17 A. Yes.

18 Q. And that any devices he said he would have would be
19 disclosed and monitored by the probation office?

20 A. Yes.

21 Q. Is that right?

22 A. Yes.

23 Q. Did agents at any time learn from a family member that
24 Mr. Hollerich was communicating with a minor using the Facebook
25 account of his girlfriend, Tiffany Lovejoy?

1 A. Yes. That was about January 2022 that he was
2 communicating with a minor using the Facebook account of his
3 girlfriend, Tiffany Lovejoy, using one of her devices which was
4 not being monitored by Pretrial and Probation.

5 Q. And this summer, this past summer, did the probation
6 office also contact Brandon Wargo, HSI Agent Brandon Wargo
7 regarding images that Mr. Hollerich was reviewing on his
8 monitored cell phone?

9 A. Yes.

10 Q. And did Agent Wargo review those images?

11 A. Yes, he did.

12 Q. And did you also review those images?

13 A. I did. After I discovered via testifying today, last
14 week I met with Probation Officer Megan O'Sullivan, who showed
15 me the information and the site that Mr. Hollerich accessed was
16 PIXIV.net.

17 And what I viewed was a series of compilations of
18 life-like computer-generated animae images. One of those images
19 is described as a life-like computer-generated anime image
20 depicting of an adult male anally penetrating a partially
21 clothed ten- to eleven-year-old juvenile male.

22 Another such image would be described as a life-like
23 computer-generated anime image depicting an adult male with a
24 one- to two-year-old juvenile toddler female sitting on the
25 erect penis of the male.

1 Q. And is it your understanding that Mr. Hollerich was
2 viewing these images while on pretrial release?

3 A. Yes.

4 Q. Agent, were you also there at the execution of the
5 first search warrant at Mr. Hollerich's home?

6 A. Yes, I was.

7 Q. And do you recall there being any issues or concerns
8 relating to Mr. Hollerich's mental health at the time?

9 A. Yes. I was not part of the interview. But after all
10 of us were done searching, the interview was over, agents
11 started departing the residence. Mr. Hollerich got up and
12 swiftly walked to the staircase and ran up the stairs to his
13 bedroom, creating kind of a barricade situation to where his
14 mother walked up the stairs -- ran up the stairs after him
15 screaming his name for him to come out. We were screaming for
16 him to come out. He eventually did come out and came back
17 downstairs.

18 In the bedroom where he ran, firearms were placed and
19 secured and placed in a corner, and it was discovered that a
20 rifle had been moved and placed on the bed by Mr. Hollerich in
21 that amount of time.

22 Q. And did law enforcement have any concerns about that?

23 A. Yes. He made some statements that he had suicidal
24 thoughts in the past. But I don't think he had them at the
25 moment. But to prove so, by moving -- he went directly to the

1 room and moved a weapon where there were many other items in the
2 room that he could have obtained. But we were feared -- not
3 only for our own safety but his safety at that time.

4 Q. Thank you, Agent Ryan.

5 MS. GAL-OR: I have no other questions.

6 THE COURT: Thank you.

7 Cross-examination, Mr. Brooks?

8 MR. BROOKS: Yes, Your Honor. I have a few questions
9 for Mr. Ryan.

10 CROSS-EXAMINATION

11 BY MR. BROOKS:

12 Q. So in this indictment, the first count dates back to
13 March of 2021?

14 A. Yes, I believe so.

15 Q. And the second count dates back to September of 2021?

16 A. Yes.

17 Q. And the third count is November of 2021; correct?

18 A. Yes.

19 Q. And as you said during your direct examination,
20 Mr. Hollerich was placed on bond back in November of 2021?

21 A. Yes.

22 Q. And that was almost a year ago; correct?

23 A. Yes.

24 Q. And the government mentioned potential violations
25 dating back to this past summer.

1 Just to be clear, these images were computer-generated
2 images?

3 A. I believe so. Some looked very, very life-like, but I
4 believe they were computer-generated. I couldn't say
5 definitively either way.

6 Q. Sure. So if they're computer-generated, they wouldn't
7 involve humans; correct?

8 A. Correct, but it depicted humans.

9 Q. It wouldn't involve children because they're not
10 human; correct?

11 A. It depicted children, sure.

12 Q. But they're not human children?

13 A. No.

14 Q. Okay.

15 And those reports that you were reading off of, those
16 were drafted around the time of Mr. Hollerich's arrest; correct?

17 A. I believe they're written at different times, but at
18 least one of them, yes.

19 Q. And Mr. Hollerich had been investigated since March of
20 2021, thereabouts?

21 A. Yes.

22 Q. Some of those reports are written back in March of
23 2021, dating all the way through November of 2021?

24 A. Yes.

25 Q. Is that correct?

1 A. Yes.

2 Q. So all of the information that you testified to during
3 your direct, that's information that agents, Homeland Security,
4 and the United States government knew back in November of 2021?

5 A. Yes.

6 Q. Okay.

7 MR. BROOKS: I have no further questions, Your Honor.

8 THE COURT: Thank you. Anything further?

9 MS. GAL-OR: Nothing, Your Honor.

10 THE COURT: All right. Agent Ryan, you may step down.

11 THE WITNESS: Thank you, Your Honor.

12 (Witness excused.)

13 THE COURT: Ms. Gal-Or, do you have any other
14 witnesses?

15 MS. GAL-OR: Yes, Your Honor. The government calls
16 United States Probation Officer Leah Masciantonio.

17 THE COURT: You're used to that, I guess. Please step
18 forward.

19 (Administration of the oath.)

20 THE CLERK: Please state your name and spell it for
21 the court reporter.

22 THE WITNESS: Leah, L-E-A-H, Masciantonio,
23 M-A-S-C-I-A-N-T-O-N-I-O.

24 DIRECT EXAMINATION

25 BY MS. GAL-OR:

1 Q. Good morning, Officer.

2 A. Good morning.

3 Q. Could you please tell us where are you currently
4 employed?

5 A. The U.S. Probation and Pretrial Services office.

6 Q. How long have you been employed there?

7 A. Thirteen years.

8 Q. What are some of your duties in that role?

9 A. I supervise defendants on Pretrial bond pending trial
10 and monitor conditions and report any violations or anything to
11 the Court.

12 Q. Thank you.

13 And, Officer, are you currently assigned to this
14 matter?

15 A. Yes.

16 Q. Is it your understanding that Mr. Hollerich currently
17 lives with his girlfriend, Tiffany Lovejoy?

18 A. Yes.

19 Q. And is that in the residence in Bethel Park,
20 Pennsylvania?

21 A. Yes.

22 Q. And is it your understanding that during his Pretrial
23 supervision his devices were being monitored?

24 A. Yes.

25 Q. And at the time that his devices were being monitored

1 in June of 2022, were there any -- did you become aware of
2 images that were brought to your attention by Probation Officer
3 Megan O'Sullivan?

4 A. Yes.

5 Q. Did you see those images?

6 A. I did not. I was in the room when there was a meeting
7 held to view the images, but I didn't physically look at them.

8 Q. During supervision of the defendant charged with
9 distribution of material depicting the sexual exploitation of
10 children, is Pretrial Services able to maintain constant
11 surveillance of the defendant inside his home?

12 A. No.

13 Q. How often during COVID times is Pretrial able to go
14 and inspect the residence?

15 A. For defendants charged with a sex offense, we are
16 required to visit the home monthly.

17 Q. Is there any way to determine if a defendant is
18 secretly using another individual's device?

19 A. Only from monitoring the home, anything in plain view.
20 That would be the only way to determine that.

21 Q. And that would only be based on monthly inspections?

22 A. Correct.

23 Q. And is there any way of knowing if the defendant
24 purchases a new device and doesn't disclose it to Probation?

25 A. Again, only if we saw it in plain view or if it was

1 reported by a family member or someone else in the home.

2 Q. Is the defendant currently on home incarceration or
3 any other restrictions in his movement other than being
4 monitored?

5 A. No.

6 Q. So he could leave the residence?

7 A. At this time, yes.

8 Q. And if that occurred, would Pretrial be able to
9 monitor in realtime his whereabouts?

10 A. No.

11 Q. So there would be no way of knowing if he would go and
12 buy another device or access a WI-FI in a public network or
13 something?

14 A. No.

15 Q. Ms. Lovejoy's expecting a baby, is that right, in
16 September?

17 A. That's correct.

18 Q. And one of the current conditions is that
19 Mr. Hollerich not have unsupervised access to a minor; is that
20 right?

21 A. Yes.

22 Q. Would it possible for Pretrial to ensure that
23 Mr. Hollerich doesn't have unsupervised access to a baby
24 residing in his own home?

25 A. Would it be possible; is that the question?

1 Q. Yes. What are some of the ways that Pretrial would
2 able to determine that Mr. Hollerich is not having unsupervised
3 access to his children?

4 A. We typically try to interview any other responsible
5 parties in the home that could ensure that he would not have
6 unsupervised contact, that maybe being Tiffany Lovejoy.

7 But, you know, if we're not there all the time, we
8 certainly wouldn't know if there was unsupervised contact.

9 Q. And in this case, is it correct that Mr. Hollerich was
10 living with Ms. Lovejoy at the time that he was -- at the time
11 that he was looking at the images in June of 2022 that were
12 brought to your attention by Officer Megan O'Sullivan?

13 A. Yes.

14 Q. Officer, do you have any concerns or have you become
15 aware of any concerns regarding Mr. Hollerich's mental health or
16 mental conditions?

17 A. Yes. He's been in mental health therapy, attends --
18 has outstanding attendance and has shown progress. But there
19 has been some reports of reoccurring -- a couple times of
20 reoccurring suicidal ideations where, you know, intervention was
21 needed, crisis support, things like that.

22 Q. Thank you, Officer. I have no other questions.

23 A. Thank you.

24 THE COURT: Thank you.

25 Cross-examination?

1 MR. BROOKS: Yes, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. BROOKS:

4 Q. Good morning, Ms. Masciantonio. I just have a few
5 questions.

6 You've been monitoring Mr. Hollerich since November of
7 2021?

8 A. Yes.

9 Q. Okay. Have there ever been any petitions filed for
10 violations of his pretrial release?

11 A. Just one. The one filed September 1, 2022, alleging
12 that the defendant had -- continued to view child pornography.

13 Q. And thus the child pornography we're talking about --
14 the alleged child pornography we're talking about dating back to
15 this past summer; is that correct?

16 A. Yes.

17 Q. Those computer-generated images?

18 A. Yes.

19 Q. That you did not see; correct?

20 A. Yes.

21 Q. Okay. Have there been any other petitions?

22 A. No.

23 Q. As a result of that petition, Mr. Hollerich and the
24 United States probation office came to an agreement; is that
25 correct?

1 A. Yes.

2 Q. That he would not view -- that he would not possess
3 any other devices with access to the Internet; is that correct?

4 A. That he would be restricted from accessing the
5 Internet at all.

6 Q. Okay. And as long as you've been supervising
7 Mr. Hollerich, has he lived with Ms. Lovejoy?

8 A. Yes.

9 Q. Have there been any instances where she had called you
10 with concerns about him violating his pretrial release?

11 A. No.

12 Q. Do you know of any instances other than the alleged
13 June incident where he has violated his pretrial release?

14 A. That he had contacted a niece through the Facebook
15 page. That's the only other one I'm aware of.

16 Q. And was that investigated?

17 A. By me?

18 Q. To your knowledge, by anyone.

19 A. No. He -- the defendant had admitted to that contact.

20 Q. And earlier you testified that you guys did monthly
21 visits of the home?

22 A. Yes.

23 Q. And when making those visits, with your own eyes you
24 didn't see any violations inside the home?

25 A. No.

1 Q. Okay. And you said Mr. Hollerich is attending
2 counseling?

3 A. Yes.

4 Q. And he has outstanding attendance?

5 A. Yes.

6 Q. Has been attending counseling since November of last
7 year?

8 A. Yes.

9 Q. And that's one of his conditions of pretrial release;
10 correct?

11 A. Yes.

12 Q. Okay.

13 MR. BROOKS: No further questions, Your Honor.

14 THE COURT: Anything further?

15 MS. GAL-OR: No. Thank you, Your Honor.

16 THE COURT: Ms. Masciantonio, thank you very much.
17 You can step down.

18 THE WITNESS: Thank you, Your Honor.

19 (Witness excused.)

20 MS. GAL-OR: The government has no other witnesses or
21 evidence to present, but we just would reserve the right to
22 argue at the end.

23 THE COURT: Thank you. Mr. Brooks, do you have any
24 evidence or witnesses that you'd like to present?

25 MR. BROOKS: Yes, Your Honor. I provided the Court

1 and the government with a few letters from family and friends of
2 Mr. Hollerich for the Court's consideration during this
3 proceeding.

4 At this time, I would like to call Tiffany Lovejoy as
5 a witness.

6 THE COURT: All right. Ms. Lovejoy, for the record,
7 is participating by video. We will get her on the video.

8 Ms. Lovejoy, can you hear me?

9 THE WITNESS: Yes, I can.

10 THE COURT: All right. Then, Ms. Eckenrode, would you
11 administer an oath, please.

12 (Administration of the oath.)

13 THE CLERK: Thank you. Please state your name and
14 spell it for the court reporter.

15 THE WITNESS: My name is Tiffany Lovejoy,
16 T-I-F-F-A-N-Y, L-O-V-E-J-O-Y.

17 THE COURT: All right. Mr. Brooks, you can proceed.

18 TIFFANY LOVEJOY, a witness herein, having been first
19 duly sworn, was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. BROOKS:

22 Q. Good morning, Ms. Lovejoy. Can you tell us a little
23 bit about yourself?

24 A. Well, I live in Bethel Park, and I live with Seth, my
25 fiancée. We just had -- we just had a baby. I don't really

1 know what else to say.

2 Q. Congratulations.

3 How long have you known Mr. Hollerich?

4 A. About six, seven years.

5 Q. And what is your relationship with Mr. Hollerich like?

6 A. It's -- it's very good. We've never had any problems.
7 We, you know, we mainly stay at home and, just, you know, watch
8 TV or, you know, hang out with each other for the most part.

9 Q. What does Mr. Hollerich do around the home?

10 A. A lot of the, you know, outside work. He helps me
11 with different chores around the house. He actually pays for
12 half of the house and half of the utilities. Yeah.

13 Q. Earlier today, Mr. Hollerich's charges were read
14 against him in open court.

15 Were you aware of those charges?

16 A. Yes.

17 Q. And have you known that Mr. Hollerich had a pending
18 federal indictment for last -- almost the last year?

19 A. Yes.

20 Q. Okay. And how do you feel about that?

21 A. I mean, it's -- it's tough. But I don't feel any
22 different towards Seth at all.

23 Q. Do you think that these charges -- well, how does that
24 affect your relationship with Mr. Hollerich?

25 A. It hasn't. It really hasn't. We're still, you know,

1 we're still together. We're still going to raise our child, and
2 it really hasn't changed much.

3 Q. Do you have any concerns about Mr. Hollerich being
4 around your child?

5 A. No.

6 Q. Now, could you describe the home in which you live
7 with Mr. Hollerich?

8 A. It's located in Bethel Park. It's a very nice
9 neighborhood. Very -- it's very calm.

10 Q. How many bedrooms are in this home?

11 A. Three.

12 Q. And how many people live in the home?

13 A. Just me and Seth and now our child.

14 Q. Are there any weapons in the home?

15 A. No.

16 Q. Were those weapons seized -- were any weapons that
17 Mr. Hollerich had seized at a result of his Pretrial conditions
18 back in November of 2021?

19 A. They -- they actually told us to remove the
20 weapons from the home, and so those weapons were removed by
21 myself and family members.

22 Q. Okay. So there are no firearms or anything in the
23 home, though; right?

24 A. No.

25 Q. Are there any dangerous animals in the home?

1 A. No.

2 Q. How long have you and Mr. Hollerich lived together?

3 A. Well, we just bought our house back in February, and
4 then I stayed with him a good bit of whenever we started dating
5 back in 2021. I was back and forth between my parents' house
6 and Seth's house. So for the most -- most of our relationship.

7 Q. And in that time that you guys have lived together,
8 have there been any instances where you needed to contact
9 Pretrial or Probation about Mr. Hollerich's behavior?

10 A. As far as like any -- any like violations, no.

11 Q. Are you aware of an alleged violation that took place
12 in January of this year?

13 A. Is it -- are you referring to talking to a niece, his
14 niece?

15 Q. Yeah. If you could describe what happened there.

16 A. That was for December. That was for Christmas. We
17 had received a message from her that said, Merry Christmas. So
18 we responded back.

19 I don't -- I was with him for that message.

20 Q. Sorry I cut you off. Was that message delivered to
21 your Facebook account?

22 A. Yes.

23 Q. Do you have a cell phone?

24 A. I do.

25 Q. Do you have a laptop?

1 A. Yes, I do.

2 Q. Do you have any other ways to access the Internet in
3 your home?

4 A. Just by my laptop and phone. I have two laptops.
5 One's for work and then one's for school.

6 Q. Are those laptops password-protected?

7 A. Yes, absolutely.

8 Q. Do you know if Mr. Hollerich knows those passwords?

9 A. He does not.

10 Q. And what about your cell phone; does it have a pass
11 code?

12 A. Yes.

13 Q. Does Mr. Hollerich know the pass code for that cell
14 phone?

15 A. No, he does not.

16 MR. BROOKS: No further questions, Your Honor.

17 THE COURT: Cross-examination?

18 MS. GAL-OR: Yes.

19 CROSS-EXAMINATION

20 BY MS. GAL-OR:

21 Q. Good morning, Ms. Lovejoy.

22 A. Good morning.

23 Q. My name is Karen Gal-Or. I'm the Assistant U.S.
24 Attorney here.

25 Congratulations on the baby.

1 A. Thank you.

2 Q. I have just a few questions for you today.

3 You mentioned that the home that you share with

4 Mr. Hollerich is a three-bedroom home; is that correct?

5 A. It is, yes.

6 Q. And do you and Mr. Hollerich sleep in the same room?

7 A. Yes.

8 Q. So you share one bedroom?

9 A. Yes.

10 Q. Is it ever the case that he sleeps in a different
11 bedroom from you?

12 A. Yeah. He -- he actually does stay down in the game
13 room sometimes, like a man cave.

14 Q. When he's down in the man cave, you're not always with
15 him; is that right?

16 A. That is correct.

17 Q. And I think you mentioned you have a cell phone and
18 two laptops; is that right?

19 A. Correct.

20 Q. Where do you generally keep those items, those
21 devices?

22 A. My laptops are in my office, which is one of those
23 bedrooms. My phone is usually on me. I don't really part with
24 my cell phone.

25 Q. When Mr. Hollerich texted a message to his niece, was

1 that using your cell phone?

2 A. Yes.

3 Q. And so at the time, was he actually holding and
4 writing in your cell phone to communicate at the time?

5 A. Yes.

6 Q. Was that the only time that he used your cell phone
7 during this period, beginning of November of 2021, or were there
8 other times?

9 A. Unless he was calling, like he might have called his
10 mom. But any time that he would use my cell phone I was with
11 him.

12 Q. And do you have WI-FI in the home?

13 A. I do, yeah.

14 Q. And does Mr. Hollerich know the WI-FI password, to
15 your knowledge?

16 A. He does, yes.

17 Q. While you lived with Mr. Hollerich, has he had any
18 devices?

19 A. I did -- I did purchase him a cell phone which was
20 monitored by Probation. That was the only one, though.

21 Q. And since November of 2021, have you looked at what
22 he's looking at during -- while he has that cell phone at all
23 times?

24 A. No.

25 Q. So you haven't monitored his Internet usage at all?

1 A. As far as Internet usage, no, because it was already
2 being monitored by Probation.

3 Q. Ms. Lovejoy, I understand that you'll be going home
4 with your baby.

5 And where do you plan to have the baby sleep when you
6 return home?

7 A. In my -- right next to me in my room.

8 Q. And is that the same room that Mr. Hollerich would
9 sleep?

10 A. Yes.

11 Q. How are you going to be able to ensure that he's never
12 left alone with the baby?

13 A. We actually -- so there's multiple -- multiple ways.
14 Both of my parents, my father and my mother, are very involved
15 in my life, and they live right down the street as well.

16 Anytime that -- and even -- even -- we have a two-story,
17 like, the basement can be a separate entity, the previous owners
18 had separated two families in that house. He could stay,
19 technically, downstairs and sleep downstairs and not have -- not
20 be, you know, unsupervised. There are other ways to do that.
21 So --

22 Q. Are you able to ensure --

23 A. -- that's just one.

24 Q. Thank you.

25 Would you be able to ensure, for instance, when you

1 shower, go to the store, that someone will always be in the
2 home? Is that something you would be able to ensure?

3 A. Yes, because my dad does not work, and my mother is
4 right down the road. Both of them are equally available, along
5 with my sisters and my brother.

6 Q. And are they --

7 A. If I needed help, yes, they would.

8 Q. And are they aware of the charges in the indictment?

9 A. Yes.

10 Q. And have they told you that they would be able to come
11 to the home every single time you, for instance, shower?

12 A. My mother and my father, yes.

13 Q. Are you aware that during this past summer
14 Mr. Hollerich was looking at images and videos that appear to
15 depict the sexual exploitation of minors, animated minors?

16 A. Yes. When they came into the house, yeah, I was told
17 that. But that was -- it was anime.

18 Q. How do you know it was anime?

19 A. Well, I -- I've seen anime. It's very -- it's
20 actually very popular, like the Pokémon and all of that. So I
21 am aware of some anime.

22 Q. Did you see any of these images?

23 A. No, I did not.

24 MS. GAL-OR: No further questions. Thank you.

25 THE COURT: Mr. Brooks, do you have any further

1 questions?

2 MR. BROOKS: Just one.

3 REDIRECT EXAMINATION

4 BY MR. BROOKS:

5 Q. If Mr. Hollerich is imposed conditions, would you be
6 willing to make sure that he abides by those conditions as a
7 condition of his pretrial release?

8 A. Yes.

9 Q. And you've done that in the past as well; right?

10 A. Yes, I have.

11 Q. And if there comes an instant where Mr. Hollerich is
12 violating his pretrial release, would you have any issue with
13 contacting Pretrial about this violation?

14 A. No, I would have no issue. No.

15 MR. BROOKS: Thank you.

16 THE COURT: I have several questions for you,
17 Ms. Lovejoy.

18 First of all, congratulations on your new addition to
19 the family.

20 Are you employed?

21 THE WITNESS: Yes, I am.

22 THE COURT: And do you work -- first of all, tell me
23 where you work.

24 THE WITNESS: I work for Allegheny Health Network.

25 THE COURT: And are you employed in the home? In

1 other words, do you work from home or do you go into an office
2 somewhere?

3 THE WITNESS: I do work from home, yes.

4 THE COURT: How many days per week?

5 THE WITNESS: Five days.

6 THE COURT: And is it my understanding that you are
7 willing to assure that your baby will not be left alone with
8 Mr. Hollerich at any time, 24 hours a day, 7 days a week?

9 THE WITNESS: I will ensure that, yes.

10 THE COURT: And are you willing to take an oath to
11 that effect?

12 THE WITNESS: Yes.

13 THE COURT: Anything further from counsel?

14 MR. BROOKS: No, Your Honor.

15 MS. GAL-OR: No, Your Honor.

16 THE COURT: Ms. Lovejoy, thank you. You may continue
17 to participate in this hearing by listening in, but you're
18 excused as a witness.

19 THE WITNESS: Thank you.

20 (Witness excused.)

21 THE COURT: Mr. Brooks, I know you mentioned three
22 letters for the record. For the record, would you identify each
23 of them and ascribe a number to each of them, please?

24 MR. BROOKS: Sure. Exhibit A -- one moment, Your
25 Honor.

1 THE COURT: That's all right. Take your time.

2 MR. BROOKS: Apologies. Exhibit A is a letter from
3 Timothy Smerecky, who is a former co-worker of Mr. Hollerich.

4 Exhibit B is from Alan Densmore, who is -- who
5 works -- I guess is Mr. Hollerich's boss at the Castle Tavern
6 South where Mr. Hollerich has worked for the last nine years.

7 And Exhibit C is Amanda Lovejoy, who is the sister of
8 Tiffany Lovejoy, who has known Seth for more than a year.

9 THE COURT: All right. Is there any objection to
10 their admission?

11 MS. GAL-OR: No, Your Honor.

12 THE COURT: Then exhibits A through C are admitted
13 into the record.

14 Mr. Brooks, do you have anything else that you would
15 like to present other than argument?

16 MR. BROOKS: No, Your Honor.

17 THE COURT: Anything further, Ms. Gal-Or?

18 MS. GAL-OR: No, just argument, Your Honor.

19 THE COURT: All right. Then we're going to take a
20 very brief break so counsel can prepare for their argument.
21 We'll reconvene at 10:20.

22 (Whereupon, a recess was taken.)

23 THE COURT: Could I see counsel at sidebar for a
24 moment, please?

25 (Whereupon, sidebar conference held:)

1 THE COURT: So one of the things I am considering is
2 whether Ms. Lovejoy could serve as a third-party custodian which
3 would give her certain duties that otherwise, you know, could
4 not really be imposed without that. But she has not been vetted
5 as a third-party custodian.

6 I'm not saying I'm going to make that decision, but
7 before I do, I feel I need to have Pretrial investigate her for
8 that possibility because that's what they typically do. I
9 wanted to raise that with both of you for your input.

10 I think what that would mean is we would have -- we
11 could certainly have oral argument today, or continue this
12 matter pending their determination of whether she would be,
13 assuming I go that way, and then reconvene. I think if we did
14 that he would have to agree not to live at the home pending such
15 a thing.

16 And again, I am open for your input, comments,
17 suggestions.

18 Ms. Gal-Or?

19 MS. GAL-OR: So the government would object to having
20 her serve as a third-party custodian for at least two reasons.
21 I think the first would be that it would be our position that
22 she's not an appropriate custodian given her emotional
23 relationship with him and her need to have him provide both
24 financially and other support for her child. She may not be
25 able to objectively or want to objectively report any

1 violations.

2 But I think the evidence here that's already been
3 presented would also show she's not an appropriate custodian.
4 Among other things, she purposely gave the defendant her own
5 phone to communicate with a minor knowingly when that was a
6 violation of the terms of his conditions and she did that of her
7 own accord.

8 And then her ability to monitor his conduct at all
9 times, in the government's view, is limited given her prior
10 inability to monitor his Internet usage, his ability to travel
11 without her knowing. And then, of course as a new mother and an
12 employed person, she just won't have the capacity to monitor him
13 at all times, particularly given the testimony that he does
14 spend some time, quite a bit of time, in the basement in his man
15 cave where she would not be able to watch him.

16 THE COURT: All right. Mr. Brooks?

17 MR. BROOKS: I would have no issue with Ms. Lovejoy
18 being screened as a third-party custodian. She would be an
19 appropriate third-party custodian. She has lived with him; she
20 knows the conditions. She is willing to do the things that, you
21 know, a third-party custodian is willing to do. And if Pretrial
22 wants to investigate her, we would have no issue.

23 I would have to inquire as to where Mr. Hollerich
24 would live during the period where she's being investigated, but
25 I'm sure that wouldn't be an issue.

1 THE COURT: I don't think that typically takes
2 particularly long, but I can't assure what it would be. But I
3 would have to have your agreement that he would. And I
4 understand if you object or can't agree to that, then we'll go
5 forward today.

6 MR. BROOKS: Can I speak with him briefly?

7 THE COURT: Absolutely.

8 One other thing to consider for both counsel is
9 whether there is another third-party custodian that the parties
10 agree on. I understand the government's seeking detention here,
11 so you don't have to agree to anyone else. But if there is
12 another person who would serve in that capacity, it's something
13 worth considering.

14 Again, I am not making a decision, as we stand here,
15 today on this issue, but it is something at least worth
16 considering. But in the interim, assuming there are no
17 objections, he would have to reside otherwise --

18 MR. BROOKS: If I could just talk to him about it?

19 THE COURT: All right. I welcome to hear anything
20 further from you, Ms. Gal-Or, that you wanted to make for the
21 record.

22 MS. GAL-OR: No. Thank you, Your Honor. Just the
23 arguments I previously raised.

24 THE COURT: Okay. Then what we will do is, if you
25 need a few moments to talk with him, you can feel free to do

1 that. If you want to step back into the jury room, if that's a
2 little bit more private, you can do that as well.

3 MR. BROOKS: Thank you.

4 THE COURT: So we'll just wait for you.

5 MR. BROOKS: All right.

6 (Whereupon, sidebar conference concluded.)

7 (In open court.)

8 THE COURT: For the record, we're giving Mr. Brooks a
9 few moments to consult with the defendant regarding an issue
10 that I raised during sidebar. So I appreciate everyone's
11 patience while we give them a few moments to do that.

12 (Brief pause in the proceedings.)

13 THE COURT: I want to advise counsel of the
14 conversation I just had with Ms. Masciantonio -- I'm sorry.

15 PROBATION OFFICER MASCIANTONIO: Masciantonio.

16 THE COURT: I have it now. Thank you, and I
17 apologize.

18 She indicated to me with respect to a discussion about
19 a third-party custodian, that Ms. Lovejoy is an acceptable
20 third-party custodian based on the probation office's review
21 that was previously done. But if you can fill us in on the
22 details of that, I would appreciate it.

23 PROBATION OFFICER MASCIANTONIO: Yes, Your Honor.
24 Being that Ms. Lovejoy resides in the home with Mr. Hollerich,
25 we have already done a criminal history check on her. She has

1 no criminal history of concern, I don't believe any at all. But
2 I remember when we checked it, there was nothing of concern that
3 would say it was inappropriate for him to reside with her.

4 She has been cooperative in ensuring that all of the
5 devices in the home are password-protected if they weren't being
6 monitored by us. She's been cooperative in showing me that
7 those devices are password-protected and that there's no other
8 way to access the Internet.

9 So, yes, we would accept her as a third-party
10 custodian, find her a suitable third-party custodian, should the
11 Court order that.

12 THE COURT: Thank you very much. I appreciate that.

13 Does counsel have any further questions regarding that
14 issue?

15 MR. BROOKS: No, Your Honor.

16 THE COURT: All right. Then, let's proceed with
17 argument at this time. Ms. Gal-Or?

18 MS. GAL-OR: Thank you, Your Honor. Pursuant to
19 Title 18, United States Code, Section 3142(e)(3)(E), there is a
20 rebuttable presumption in this case that no condition or
21 combination of conditions will reasonably assure the appearance
22 of the defendant as required and the safety of the community if
23 there is probable cause to believe that this defendant committed
24 an offense involving a minor victim, including the charged
25 offenses of distribution of child sexual exploitation material,

1 in violation of Title 18, United States Code,
2 Section 2252(a)(2).

3 To rebut that presumption, the defendant must come
4 forward with some credible evidence that the defendant does not
5 pose a danger to the community or that the defendant is a flight
6 risk. And here, it's the government's position that the
7 defendant has not met that burden to overcome the presumption.

8 As an initial matter, the defendant's continued
9 release presents a substantial danger to the community. Turning
10 first to the nature and circumstances of the offenses charged.
11 As this Court has heard, the defendant distributed multiple
12 images of child pornography and possessed hundreds of such
13 images and videos, including images and videos depicting the
14 sexual abuse of infants and toddlers.

15 The defendant admitted to masturbating and ejaculating
16 to child sexual abuse material. He admitted that the youngest
17 individuals he has observed in child sexual abuse material are
18 infants and toddlers, and he admitted to masturbating to that
19 specific type of file.

20 The offenses he has been charged with are, of course,
21 very serious. Child pornography is an especially heinous crime
22 because it takes advantage of the most vulnerable people in our
23 society, children. And indeed, Congress deems the offense of
24 distribution of child sexual abuse material so seriously that it
25 imposed a mandatory minimum sentence of five years'

1 incarceration for that crime.

2 As I anticipate the defense counsel will argue the
3 defendant has, in fact, been released on bond after charged via
4 criminal complaint with possession for several months now, since
5 November of 2021. However, the circumstances, in the
6 government's view, have substantially changed.

7 First, the defendant has been charged now via
8 indictment with distributing child pornography, not just
9 possessing those images and videos.

10 Further, the defendant has demonstrated, in the
11 government's view, that despite being placed on Pretrial
12 conditions he remains a danger to the community. As this Court
13 has heard, while on pretrial release, the defendant sought and
14 viewed images that appeared to depict the sexual abuse of
15 minors, including sexual assault of what appears to be minors,
16 animated images of minors, as young as one or two years old
17 being sexually abused.

18 The Court heard from Agent Ryan who reviewed these
19 images and testified they appear to be anime images but very
20 realistic and life-like.

21 The government anticipates the defense counsel will
22 argue that the fact these images were anime means that he did
23 not, in fact, violate his conditions. However, the federal law
24 specifically prohibits possession of such obscenity which is a
25 category of speech not protected by the First Amendment.

1 For instance, Title 18, United States Code,
2 Section 1462(a) makes it a crime to knowingly use an interactive
3 computer service for the carriage in interstate or foreign
4 commerce of: obscene, lewd, lascivious or filthy books,
5 pamphlets, pictures, motion-picture film, paper, letter,
6 writing, print, or any other matter of indecent character.

7 Likewise, and even more specifically on point,
8 Title 18, United States Code, Section 1466(a)(B) makes it a
9 crime to knowingly possess a visual depiction of any kind,
10 including a drawing, cartoon, sculpture or painting, that
11 depicts a minor engaging in sexually explicit conduct; and is
12 obscene.

13 I think from the descriptions provided by Agent Ryan,
14 which are clearly anal and vaginal penetration of infants and
15 toddlers, that those drawings -- those anime life-like
16 representations would be deemed obscene under the law.

17 Further, even if it were not a crime to possess such
18 images, the defendant's actions on pretrial supervision, in the
19 government's view, show at least two things. First, that he
20 maintains sexual interest in minors, including very young
21 minors; and second, that he is willing to violate the terms of
22 his pretrial supervision to satisfy that sexual interest. That
23 alone, in the government's view, demonstrates that he is and
24 remains a danger to the community.

25 The defendant's argument, for instance, that his

1 current conditions and an additional condition of prohibiting
2 him from accessing the Internet will remove any risk imposed to
3 the community if he remains on bond. The government disagrees.

4 As noted, the defendant here has demonstrated a
5 willingness to violate the terms of his supervision. For
6 instance, as the Court heard testimony that he was willing to
7 use his girlfriend's phone to communicate with minors, a phone
8 that was not being monitored by Pretrial probation. And he also
9 used his own phone to access obscene images depicting sexual
10 abuse of children.

11 For those reasons, there is reason to believe he will
12 continue to violate his conditions in various other ways to
13 satisfy his sexual urges.

14 In this day and age, electronic home monitoring and
15 any condition prohibiting from possessing devices in Internet
16 connectivity would not adequately address his ability to access
17 phones and computers. Any monitoring would not apply to devices
18 owned by others in the home or those not disclosed to the
19 probation office. And indeed, under the proposed release plan,
20 the defendant would continue to live in the same residence and
21 with the same person with whom he was living when, in the
22 government's view, he violated his government pretrial
23 supervision by viewing what appeared to be child pornography.

24 Ms. Lovejoy was not able, despite her best efforts, to
25 monitor his conduct then and could not, in the government's

1 view, with sufficient certainty be able to monitor his behavior
2 24/7 pending a trial in this matter.

3 The government also continues to be concerned that the
4 defendant poses a risk to his child with whom he would be living
5 under the proposed release plan.

6 As noted, the defendant has demonstrated and even
7 admitted to having a sexual interest in minors and toddlers,
8 including infants and toddlers, saying that he masturbates and
9 ejaculates to those images. And allowing him to live in the
10 same residence as a baby under those circumstances is
11 concerning.

12 I'll just note a few notes from the testimony we heard
13 today. For instance, as noted, Mr. Hollerich claimed that he
14 did masturbate to files containing sexual abuse of infants and
15 toddlers. On his cell phone, there were at least one image and
16 one video depicting the sexual abuse of minors as young as two
17 to three years old performing oral sex as well as vaginal
18 intercourse with adult males. And in communications found on a
19 Tumblr account that Mr. Hollerich controlled, he wrote that he
20 pretty much loved everything, but particularly little cuties and
21 jail baits, stating, love to watch my cock squeezing in them.

22 The government believes those are very concerning
23 statements, very concerning evidence that is sufficient to show
24 that he would be, in fact, a danger to any minors with whom he
25 would have any contact, particularly unsupervised contact.

1 It's the government's view it's not reasonable to have
2 Ms. Lovejoy be able to monitor his conduct at all times. Again,
3 despite best efforts, including while she sleeps, showers, goes
4 to the grocery store, Ms. Lovejoy testified that he slept
5 sometimes in the basement, spent quite a bit of time there where
6 again she would not be able to supervise his conduct.

7 Turning next to the weight of the evidence against the
8 defendant. As the Court heard, the government believes there is
9 very strong evidence in this case. Of course, while the
10 defendant is entitled to the presumption of innocence, there
11 were multiple search warrants conducted that revealed the
12 defendant's cell phone contained hundreds of images and videos
13 of child sexual abuse material, including images that were
14 distributed over Tumblr and other social media sites. And
15 further, the defendant, after being interviewed, admitted to
16 distributing and possessing child sexual abuse material.

17 Quickly turning to the history and characteristics of
18 the defendant. He does not have any criminal convictions, but
19 the evidence in this case reveals that his conduct is serious
20 and ongoing. He admitted to the agents that he has been viewing
21 these types of images on and off for approximately seven years,
22 and in the government's view, the conduct from the past summer
23 showed us that his interest and the conduct continued.

24 I also think, again, that it's very important for the
25 Court to note that there is a clear, in the government's view,

1 willingness to violate while on pretrial release.

2 It's again the government's position that the
3 defendant's conduct would pose a serious danger to minors in the
4 community, both through his online conduct, in his community,
5 and potentially in his own residence.

6 I'll finally note briefly there has been evidence
7 presented today that Mr. Hollerich has -- is potentially a
8 suicide risk, has potentially had some suicidal ideations.
9 Pursuant to Title 18, United States Code, Section 3142(g)(3),
10 the Court must, when determining detention or release, consider
11 the person's mental condition.

12 As the Court, I believe, is aware, defendants who are
13 charged with these types of sexual exploitation offenses are at
14 a very high risk of suicide. An analysis of an FBI case
15 reporting between July 2015 and June of 2016 revealed at least
16 23 suicides, 6 attempted suicides, and threats of suicide by
17 others under investigation for crimes involving sexual
18 exploitation of children. And courts have held that suicide is,
19 in fact, a risk of flight that would warrant a detention in
20 those cases.

21 I'll note for the record two cases that, in
22 government's view, are factually similar. One is United States
23 vs. Albertson, a case from the middle district of Pennsylvania
24 in which the Court held that the weight of the evidence against
25 the defendant indicated there were no conditions of release that

1 could assure the safety of the community considering among other
2 factors that defendant had attempted suicide in the past and
3 that he had been hospitalized. The Court held that based on
4 those factors, among others, it would be judicially
5 irresponsible for the Court to grant the defendant release.

6 Likewise, in United States vs. Valle-Irizarry, a case
7 from the district of New Jersey, the Court considered the fact
8 that the defendant had a history of mental health disorders and
9 suicide attempts in finding detention was warranted.

10 So given all of those factors, considering all of the
11 various factors the Court must consider, it would be the
12 government's position that the defendant has not overcome the
13 presumption in this case and there is, in fact, no set of
14 conditions that would ensure the safety of the community and his
15 continued appearance in this case.

16 THE COURT: Thank you very much.

17 Mr. Brooks?

18 MR. BROOKS: Your Honor, I understand this is a
19 presumption case, but I do believe Mr. Hollerich has rebutted
20 that presumption quite thoroughly.

21 To begin, the government has said that the situation
22 has changed between November and now. I would say that in some
23 ways, yes, it has, but in many ways it has not.

24 In the ways it has not, these charges date from March
25 of 2021, September of 2021, and November of 2021, all of these

1 allegations, all of these reports were written at that time.
2 The government chose to charge these crimes differently in
3 August of 2022. But that does not change what the allegations
4 were then, it does not change what they were now. Everything in
5 that instance is the same.

6 Things that have changed, however, are there were
7 ongoing plea negotiations during -- from November 2021 until
8 August of 2022. The parties were not able to come to an
9 agreement and so an indictment was filed. That has changed.
10 But other than that, the allegations have not changed.

11 I would point out that the standard for pretrial
12 release is a condition or set of conditions that can assure the
13 appearance of Mr. Hollerich and the safety of the community.

14 Mr. Hollerich is appearing in court voluntarily today.
15 It's not like he's running from this case. He's not going
16 anywhere. We can reasonably be assured that he is going to come
17 to court when he's required to based on his presence here today,
18 based on the fact that he has not tried to run from this in any
19 way.

20 And we're talking about the safety of the community.
21 The community is safe. Mr. Hollerich has been on bond since
22 November of 2021. He has not violated any laws. He has not --
23 there has been one petition for -- a petition for a violation of
24 his pretrial release. I would argue that his pretrial release
25 was not violated. He was ordered not to view depictions of

1 child pornography. I would argue that animated child
2 pornography is not child pornography. We are talking about
3 cartoons.

4 I understand that the government has cited some
5 statutes. I would argue that the Supreme Court talked about
6 virtual child pornography in Ashcroft v. Free Speech Coalition,
7 122 S.Ct. 1389. It's a 2002 case in which the Court talked
8 about virtual child pornography and ultimately there were no
9 children being harmed.

10 The Court said that a statute violating virtual child
11 pornography was overbroad because there were no -- the actual
12 harm in child pornography cases is that children are being
13 harmed. We're talking about a situation where there is anime,
14 cartoons, virtual child pornography, whatever it may be. That's
15 something that defense counsel's not seen, so I can't adequately
16 describe what it even is. But we're talking about something
17 that we are all fairly certain does not involve actual people.

18 In this case, Pretrial recommends Mr. Hollerich's
19 release with certain conditions. He's willing to abide by those
20 conditions. He has abided by the conditions that were imposed
21 in November of 2021 and he will continue to do so if he is
22 granted his continued release.

23 There is no allegation in this case of any sort of
24 harm to any people in the community. There's no allegation that
25 he has tried to harm a minor child or expressed a desire to harm

1 a minor child in any real concrete way. There is no allegation
2 that he's produced any sort of child pornography as well.

3 So the idea that he is now going to turn into someone
4 who has been on pretrial release for production and distribution
5 with those allegations, he's -- sorry, possession and
6 distribution, he's not going to be someone who produces child
7 pornography or harms children. That's not based on any fact.
8 That's based on, you know, I guess feelings. But it's not based
9 on any sort of concrete evidence that we can point to say that
10 perhaps that's something that would happen.

11 The government made a point to talk about suicide risk
12 in this case. As Agent Masciantonio testified to earlier,
13 Mr. Hollerich has been outstanding in his attendance at mental
14 health meetings. That was ordered by Pretrial. He's been doing
15 that since November of 2021.

16 In the Pretrial report, they note that he voluntarily
17 agreed to do in-patient mental health treatment back in November
18 of 2021. So this is not someone whose mental health you should
19 be concerned about as long as he is on pretrial release because
20 he's going to his meetings. They are a condition of his
21 release.

22 If he does not go to his meetings, then a petition can
23 be drawn and we can then have this -- we can talk about whether
24 or not his mental health is stable and whether or not he's
25 violating his conditions. But as for now, he is not violating

1 those conditions because he's going to those meetings.

2 The government also pointed out some sort of
3 communication between a minor and Mr. Hollerich in January of
4 2022. Again, that's something that defense counsel does not
5 have any evidence of. It's my understanding, through Agent
6 Masciantonio's testimony, that that was not thoroughly
7 investigated. My understanding is that it was a message sent by
8 Mr. Hollerich's niece to him around the holiday season which he
9 responded to and that it's not as if he is doing something
10 unseemly. Yes, it is a violation of his pretrial release, but
11 it is not something that would cause any concern for there being
12 a danger to the community.

13 Mr. Hollerich has a steady home situation and a
14 third-party custodian, his fiancée, Tiffany Lovejoy. Again,
15 there is stability in his life. He's not a flight risk. He's
16 worked at that job for nine years. He has bonds in the
17 community. Ms. Lovejoy's family is in the courtroom today
18 supporting Mr. Hollerich as well. He has community support.
19 He's not, again, not a flight risk or a danger.

20 He has no criminal record. There are no crimes in his
21 background.

22 He has voluntarily consented to not having any
23 Internet access. As Officer Masciantonio has said, Ms. Lovejoy
24 has shown to Probation that he does not have access to any cell
25 phones or computers, any video gaming system, any tablets,

1 anything that would allow him access to the community -- sorry,
2 access to the Internet. And if he were to purchase something
3 with Internet access, Ms. Lovejoy assured the Court that she
4 would take appropriate actions. Probation believes she would
5 take appropriate actions. That's why she is considered a
6 suitable third-party custodian.

7 Additionally, there are conditions short of pretrial
8 detention that would ensure his return and the safety of the
9 community.

10 The home, as Ms. Lovejoy said, actually has two floors
11 with a lock between those floors. It was at one point a
12 two-family home that has been converted to a one-family home.
13 If there are concerns about him being around the baby, there are
14 ways to maintain a distance between Ms. Lovejoy and the baby and
15 Mr. Hollerich short of him being incarcerated pretrial.

16 The government's spent a lot of time talking about
17 these allegations. Again, these are all allegations that have
18 been known for over a year. They are only allegations.
19 Mr. Hollerich is not guilty of anything. Those statements that
20 the government read to the Court are allegations again. There
21 is no reason for the Court to believe that Mr. Hollerich is
22 guilty of anything at this point.

23 For those reasons, I would say Mr. Hollerich has
24 rebutted the presumption of pretrial detention and that he
25 should be allowed to remain in the community with the conditions

1 imposed -- conditions suggested by Pretrial which include not
2 possessing a firearm, not using drugs. He's, in my
3 understanding, willing to continue with substance abuse
4 treatment. So it's not as if he will be able to use drugs and
5 no one would know. He would be tested for those things. And he
6 would be willing to do inpatient or outpatient for those. And
7 he has agreed to not use the computer.

8 So for those reasons, I would argue Mr. Hollerich is
9 not a flight risk. He's not a danger to the community. And he
10 should not be detained pretrial in a case that has been around
11 for almost a year at this point in which he has not committed
12 any new offenses. He has not had any, you know, I would argue,
13 violations of his pretrial release. There is no reason to
14 remove him from a stable situation and throw him into
15 incarceration at this point.

16 Thank you.

17 THE COURT: Thank you. Ms. Gal-Or, do you have
18 anything further you'd like to add?

19 MS. GAL-OR: Very briefly, Your Honor. I would note
20 the decision that was cited, the Supreme Court decision did not
21 go to the statutes that I cited which are obscenity statutes
22 which were in no way called into question by the Ashcroft
23 decision.

24 THE COURT: Thank you.

25 Ms. Eckenrode, would you see if Ms. Lovejoy is still

1 with us?

2 THE CLERK: Yes, Your Honor.

3 If you're in position to turn your camera back on
4 and/or unmute yourself. Thank you.

5 THE COURT: Ms. Lovejoy, can you hear me?

6 MS. LOVEJOY: Yes, I can.

7 THE COURT: One of the matters that has been suggested
8 is your service as a third-party custodian in connection with
9 the potential release of Mr. Hollerich.

10 Do you have an understanding of what that means?

11 MS. LOVEJOY: It -- I'm thinking, like it would just
12 be like how I have been monitoring, you know, anything that
13 pretty much he does. That's what I would take that as.

14 THE COURT: All right. Let me give you a little
15 further explanation on that and then I have some questions for
16 you.

17 A third-party custodian can be assigned in certain
18 cases and appointed by the Court to ensure several things.
19 First, the appearance of a particular defendant at all court
20 proceedings. Second, to monitor the conduct and assure that the
21 particular defendant is abiding by all of the conditions that
22 are imposed by a judge for a pretrial release. And finally, to
23 notify the Court and the probation office in the event that for
24 any reason and based on any condition the defendant fails to
25 abide by what the conditions are that have been imposed.

1 Do you understand essentially, based on what I've told
2 you, what a third-party custodian is charged to do and required
3 to do?

4 MS. LOVEJOY: Yes.

5 THE COURT: Are you willing to serve in that capacity
6 with respect to Mr. Hollerich?

7 MS. LOVEJOY: Yes.

8 THE COURT: All right. Do you have any questions
9 about what your responsibilities would be?

10 MS. LOVEJOY: No.

11 THE COURT: All right. Then I'm going to get back to
12 you at a later point in this proceeding. Please stay with us
13 here.

14 All right. I want to turn to my findings and
15 conclusions, and I very much appreciate the excellent advocacy
16 that I've heard today.

17 I will note that the government is seeking to detain
18 Mr. Hollerich based upon the nature of the offenses that were
19 charged. And the government has asserted, as it may do, that
20 Mr. Hollerich is a danger to the community and there is a flight
21 risk with respect to him.

22 Those arguments are certainly appropriate under these
23 circumstances and the government certainly is entitled to seek
24 detention based upon those circumstances.

25 The government asserts that there is a rebuttable

1 presumption that detention is required because of the nature of
2 the offenses charged. I agree that there is a rebuttable
3 presumption that applies here for that reason, based upon the
4 charges in the indictment and the penalties that may be imposed
5 if Mr. Hollerich is convicted or otherwise pleads guilty.

6 That is a rebuttable presumption, which means that it
7 can be overcome by Mr. Hollerich. That places on him the burden
8 of producing some credible evidence to rebut it. That burden
9 isn't heavy, and I do find here that Mr. Hollerich has offered
10 some relevant evidence that does not eliminate the presumption
11 altogether, and certainly the presumption remains a factor for
12 me to consider.

13 Turning to the specific factors that the Bail Reform
14 Act requires me to consider, the first being the nature and
15 circumstances of the alleged offenses.

16 I will note that without reviewing in great detail the
17 nature and circumstances, the evidence as presented by Agent
18 Ryan confirmed that accounts that were controlled by
19 Mr. Hollerich accessed and distributed multiple images and that
20 there were many more images that were obtained through a search
21 of his cell phone. Those images included images that were
22 disturbing, including the depiction or videos of sexual acts
23 between minors and adult males.

24 I will note that when the search was conducted,
25 Mr. Hollerich admitted that there was child pornography on his

1 phone, that he had been viewing for approximately seven years
2 and that among the search terms used were terms such as "young,
3 cuties, and teen"; that the searches according to him, based
4 upon a statement given or at least comments given, that it was
5 mostly girls.

6 He admitted masturbating to child pornography, and
7 certainly the images and videos that were revealed showed, among
8 others, a two- to three-year-old engaging in oral sex with an
9 adult male; a ten- to twelve-year-old engaging in oral sex with
10 an adult male; a video of a minor, age approximately six or
11 seven, with an adult male on top of that minor with penetration
12 occurring; and another minor aged around four or five, exposing
13 her vagina with an adult male masturbating and ejaculating.

14 I'll note that, among other things, there were files
15 sent by Mr. Hollerich to others and in communications with
16 another person. He indicated, among other things, he likes
17 pretty much everything, including little cuties and jail bait,
18 and hopes to have his cock squeezed into them. He also
19 suggested they could chat or trade and asked to be contacted or
20 hit me up.

21 I certainly consider the nature and circumstances of
22 those offenses to be quite serious, and if proven, subject to a
23 significant jail term and certainly deeply offensive on many
24 levels. So I certainly consider those offenses to be quite
25 serious.

1 In terms of the weight of the evidence, I agree here
2 that the weight is strong. First of all, a grand jury returned
3 a three-count indictment charging Mr. Hollerich with both
4 possessing and distributing images and/or videos of child
5 pornography including very young children.

6 Also having heard the testimony of Agent Ryan, I
7 believe based on the evidence found in the cell phone and the
8 statements -- certain statements made by Mr. Hollerich that the
9 weight of the evidence here is significant.

10 Turning to the history and characteristics of
11 Mr. Hollerich. I'll note that he currently resides with his
12 fiancée, Ms. Lovejoy, in the Bethel Park area. He is a native
13 of this area. He has been employed at Castle Tavern South for
14 approximately nine years. He has indicated that he wishes to
15 return to the home that he shares with Ms. Lovejoy in which,
16 according to at least the testimony, there are no dangerous
17 weapons or firearms.

18 He has, as noted during the testimony here today,
19 based upon the criminal complaint that was filed, been on
20 conditions of release for some period of time, is regularly
21 attending mental health sessions.

22 There is, according to Pretrial Services, only one
23 instance of any criminal record, that occurring back in 2015.
24 There has been no evidence presented to me that at any time
25 Mr. Hollerich has been charged with production of child

1 pornography or has been charged with attempting to or harming a
2 minor or expressing an intent to do so.

3 I will note, as we heard from Ms. Masciantonio, that
4 there was a violation of his previous conditions of pretrial
5 release based on the criminal complaint. That included
6 reviewing certain anime child pornography and there was also
7 some testimony about Mr. Hollerich sending a message to a niece.
8 Based upon what I heard, that message was sent -- first there
9 was a message sent by the niece, and the return was in the
10 presence of Ms. Lovejoy. So certainly I acknowledge that there
11 have been alleged violations which led to a previous petition
12 being filed. I've also reviewed the recommendation at that time
13 of the probation office.

14 I have also considered the nature and seriousness of
15 the danger to the community as well as the prior suicide
16 ideations expressed by Mr. Hollerich. Certainly, these sorts of
17 crimes are not countenance which with Mr. Hollerich has been
18 charged. They are, as I note, serious. And certainly any
19 continued behavior of that type would be dealt with very
20 seriously if brought before, I'm confident, any judge in this
21 court. So I don't diminish the nature of the offenses charged
22 or the potential danger to the community if appropriate
23 conditions are not imposed.

24 I have also reviewed the recommendation of the
25 Pretrial Services office in which they have suggested amended

1 conditions of release.

2 I have also reviewed the defendant's motion to modify
3 those previous conditions as well as the government's response
4 to those.

5 So I feel I, based on the efforts of counsel and the
6 testimony here today, have a good sense of the history of this
7 case and certainly feel prepared at this point to indicate what
8 my conclusions are going to be here.

9 Based upon the evidence presented, I am going to order
10 that Mr. Hollerich be released based upon amended conditions of
11 release, and I am going to be appointing Ms. Lovejoy as a
12 third-party custodian in that regard.

13 I understand the government's disagreement with that
14 conclusion and certainly the government, if it feels strongly
15 about this or feels it is necessary, has the right to appeal any
16 decision that I make here today.

17 But I do find that, based upon the principles of the
18 Bail Reform Act, there are conditions that would reasonably
19 assure Mr. Hollerich's appearance and the safety of others in
20 the community.

21 So at this time, I'm first going to turn to
22 Ms. Lovejoy. Ms. Lovejoy, can you still hear me?

23 MS. LOVEJOY: Yes, I can.

24 THE COURT: All right. I previously informed you of
25 the duties of a third-party custodian and you indicated that you

1 understand those duties. Let me reiterate those with you here
2 at this point.

3 By agreeing to serve as a third-party custodian, you
4 are agreeing to engage in certain requirements. First, you will
5 be required to supervise Mr. Hollerich and ensure that he abides
6 by the conditions that I'm going to impose. Secondly, you must
7 make your best efforts to ensure that he appears for all court
8 proceedings and other matters that the probation office might
9 require him to do. And you are also, and most importantly,
10 required to notify the Court in the event that Mr. Hollerich
11 violates any of the conditions that I am imposing here today.

12 Do you understand what your responsibilities are?

13 MS. LOVEJOY: Yes.

14 THE COURT: Are you willing to serve as a third-party
15 custodian and undertake those responsibilities?

16 MS. LOVEJOY: Yes.

17 THE COURT: Do you agree that in the event that there
18 is any violation, no matter how minor it may be, you would
19 immediately notify the probation office and the Court of that
20 violation?

21 MS. LOVEJOY: Yes.

22 THE COURT: All right. Ms. Eckenrode, would you
23 administer an oath, please.

24 THE CLERK: Yes, Your Honor.

25 (Administration of the oath.)

1 THE COURT: Thank you. All right. Mr. Hollerich, I'd
2 like you to step forward, please, so I can review these
3 conditions with you.

4 (Mr. Hollerich steps forward.)

5 THE COURT: Mr. Hollerich, you were previously placed
6 on certain conditions, and I'm amending those conditions today.
7 I'm going to review all of them with you. You will also receive
8 a written copy of them after this proceeding here today.

9 If at any time while reviewing these conditions you
10 didn't hear me or you didn't understand what that condition
11 means, please stop me, and I will review that condition with you
12 again.

13 Do you understand how we're going to proceed at this
14 time?

15 THE DEFENDANT: Yes, I do, Your Honor.

16 THE COURT: Do you understand the importance of
17 abiding by every one of the conditions that I'm about to impose?

18 THE DEFENDANT: Yes, I do, Your Honor.

19 THE COURT: Then I'm going to review all the
20 conditions with you understanding that only some of them have
21 been amended. But I'm going to review everything that is in my
22 order, all right?

23 First of all, you must not violate any federal, state,
24 or local law while you are on release.

25 If it is allowed by law, you must cooperate in the

1 collection of a DNA sample.

2 You must advise the Court or Pretrial Services before
3 you make any change to where you live or your telephone number,
4 and that must be done in writing.

5 You must appear in court as required, and if you are
6 convicted, you must surrender to serve a sentence that the Court
7 may impose.

8 An appearance bond was previously entered in this case
9 and that appearance bond remains in effect at this time.

10 As a reminder, that is an unsecured appearance bond,
11 which means that you do not have to pay that amount but it may
12 be forfeited if you fail to appear for court or fail to abide by
13 the conditions that I am imposing.

14 In addition, you are placed in the custody of
15 Ms. Lovejoy as a third-party custodian.

16 Did you hear her requirements as a third-party
17 custodian?

18 THE DEFENDANT: Yes, I did, Your Honor.

19 THE COURT: In addition, you must report to
20 supervision by and report for supervision to the United States
21 Pretrial Services office. Their telephone number, if you need
22 it, is on the conditions of release.

23 You are restricted in your travel to the Western
24 District of Pennsylvania.

25 You are to avoid all contact, whether that is direct

1 or indirect, with anyone who may be a victim or a witness in the
2 investigation or prosecution of your case.

3 You shall have no direct or indirect contact with any
4 minor except in the presence of an adult who is approved by
5 Pretrial Services and who is aware of the pending charges
6 against you. That includes the infant that was just born.

7 Do you understand that you may not have any
8 unsupervised contact with your baby?

9 THE DEFENDANT: I do, Your Honor.

10 THE COURT: All right. You must get mental or medical
11 or psychiatric treatment as required. That would include a
12 mental health assessment and/or psychiatric evaluation, and you
13 must complete any treatment as that is directed by the Pretrial
14 Services office or your supervising officer.

15 PROBATION OFFICER MASCIANTONIO: Your Honor?

16 THE COURT: Yes.

17 PROBATION OFFICER MASCIANTONIO: Can we have the
18 condition read -- he's already had a mental health assessment
19 and psychiatric evaluation. Can we have it read that he just
20 continue in those services?

21 THE COURT: Sure. Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: Since you've already had the evaluation, I
24 will strike that part of it but we'll request and insist that
25 you complete all of the treatment that you're currently

1 undergoing.

2 You may not possess a firearm, a dangerous weapon, or
3 a destructive device.

4 You may not use or unlawfully possess any narcotic
5 drug as that is defined by law unless it has been specifically
6 prescribed for you by a licensed medical practitioner. That
7 includes any controlled substance or narcotic drug as defined by
8 law.

9 And you must also submit to testing for a prohibited
10 substance if that is required by the Pretrial Services office.
11 That testing can be used with random frequency and may include
12 urine testing, the wearing of a sweat patch, a remote alcohol
13 testing system, and/or any other form of prohibited substance
14 screening or testing.

15 You must continue to participate in a program of
16 inpatient or outpatient substance abuse therapy and counseling
17 if that is directed by the Pretrial Services office.

18 You also will be restricted in your location to home
19 detention. That means that you are restricted to your residence
20 at all times except for employment, education, religious
21 services, medical substance abuse, or mental health treatment,
22 attorney visits, court appearances, court-ordered obligations,
23 or any other activities as long as they are approved in advance
24 by the Pretrial Services office.

25 That location monitoring will be as directed by the

1 Pretrial Services. You must pay all or part of that cost of
2 location monitoring based on your ability to pay as that is
3 determined by the Pretrial Services office.

4 You must report as soon as possible to Pretrial
5 Services any contact that you have with law enforcement
6 personnel. That includes a traffic stop, questioning, or an
7 arrest.

8 And there will also be restrictions on your use of the
9 Internet which I'm now going to go over with you.

10 You shall not purchase, possess, or use a computer, a
11 cell phone with Internet access, or other electronic devices
12 capable of storing, recording, or replaying electronic media or
13 data files at any location. That includes your place of
14 employment or any other place that you are authorized to visit
15 despite being on home detention.

16 You shall not access any Internet service provider,
17 bulletin board system, or any other public or private computer
18 network or service at any location. That includes any devices
19 located in your home that are the property of Ms. Lovejoy,
20 including two laptops and a cell phone.

21 You shall consent to periodic inspection by the
22 Probation or Pretrial Services officer of any cell phone that
23 you possess to ensure compliance with this condition.

24 You shall abide by all of the provisions of your
25 computer restrictions, that being no access to the Internet

1 whatsoever.

2 Did you understand all of the conditions that I just
3 reviewed with you?

4 THE DEFENDANT: Yes, I did, Your Honor.

5 THE COURT: Do you agree to abide by all of those
6 conditions?

7 THE DEFENDANT: I do, Your Honor.

8 THE COURT: Specifically, do you understand, among
9 other things, that you may not access the Internet in any way?

10 THE DEFENDANT: I do, Your Honor.

11 THE COURT: Do you understand that you may not attempt
12 to access any electronic device that is in your home that is in
13 the possession of Ms. Lovejoy?

14 THE DEFENDANT: I do, Your Honor.

15 THE COURT: Do you understand that you may not have
16 any unsupervised contact with any minor, and that includes your
17 newborn child?

18 THE DEFENDANT: I do, Your Honor.

19 THE COURT: Ms. Eckenrode, would you administer an
20 oath, please, to Mr. Hollerich?

21 THE CLERK: Yes. That would follow also with his
22 signature on that, Your Honor.

23 THE COURT: Yes. Thank you.

24 (Administration of the oath.)

25 THE COURT: All right. Mr. Hollerich, it is necessary

1 for you to sign the amended order setting the conditions of
2 release.

3 Before I hand them to you, Ms. Lovejoy, if you were
4 here in our courtroom, I would require you to sign, agreeing to
5 serve as a third-party custodian.

6 May I sign your name to this document with your
7 permission?

8 MS. Lovejoy: Yes.

9 THE COURT: All right. I will do so. At this point,
10 I'm handing the amended conditions to Mr. Hollerich. You can
11 feel free, if you'd like, to find a good place to sign them. It
12 looks like Ms. Eckenrode is setting that up for you.

13 You can be seated.

14 All right. With those conditions, I'm ordering that
15 Mr. Hollerich may continue his pretrial release under the
16 amended conditions that I've reviewed.

17 Before I forget about this, Mr. Brooks, Mr. Hollerich
18 needs to report to the marshal control center to be processed.
19 That needs to be done immediately after this proceeding. I
20 believe they're in the building, although I can't tell you
21 exactly where.

22 THE CLERK: Second floor.

23 THE COURT: The second floor. Please make sure that
24 that happens immediately after this proceeding here today.

25 Is there any other matter that counsel wanted to

1 address during this proceeding? Ms. Gal-Or?

2 MS. GAL-OR: Nothing from the government, Your Honor.

3 THE COURT: Thank you for your efforts. Mr. Brooks?

4 MR. BROOKS: No, Your Honor.

5 THE COURT: Thank you for your efforts as well. I
6 appreciate everyone's attendance here today.

7 Ms. Masciantonio -- and someday I'll get it exactly
8 right, I promise -- I appreciate your input here today and your
9 appearance.

10 Ms. Lovejoy, we appreciate your appearance here today
11 and expect that you will abide with your duties as third-party
12 custodian, specifically to make sure that Mr. Hollerich neither
13 has any unsupervised time with your baby and does not access any
14 device in your home or otherwise have access to the Internet.
15 Do you understand?

16 MS. LOVEJOY: Yes, I do, Your Honor.

17 THE COURT: All right. If there is nothing further,
18 that concludes this proceeding.

19 (Proceedings concluded at 11:24 a.m.)

20 - - -

21 C E R T I F I C A T E

22 I, SHARON SIATKOWSKI, certify that the foregoing is a
23 correct transcript from the record of proceedings in the
above-entitled matter.

24 s/Sharon Siatkowski
25 SHARON SIATKOWSKI, RMR, CRR, CBC, CRI
Official Court Reporter